

## Temporary Duty (TDY) Travel Allowances

## § 301-10.135

first-class and business-class accommodations and you certify such on your voucher; or

(b) No space is available in coach-class accommodations in time to accomplish the mission, which is urgent and cannot be postponed; or

(c) When use of business-class accommodations is necessary to accommodate your disability or other special need. Disability must be substantiated in writing by a competent medical authority. Special need must be substantiated in writing according to your agency's procedures. If you are authorized under §301-13.3(a) of this chapter to have an attendant accompany you, your agency also may authorize the attendant to use business-class accommodations if you require the attendant's services en route; or

(d) Security purposes or exceptional circumstances as determined by your agency make the use of business-class accommodations essential to the successful performance of the agency's mission; or

(e) Coach-class accommodations on an authorized/approved foreign air carrier do not provide adequate sanitation or health standards; or

(f) The use results in an overall cost savings to the Government by avoiding additional subsistence costs, overtime, or lost productive time while awaiting coach-class accommodations; or

(g) Your transportation costs are paid in full through agency acceptance of payment from a non-federal source in accordance with chapter 304 of this title; or

(h) Where the origin and/or destination are OCONUS, and the scheduled flight time, including stopovers and change of planes, is in excess of 14 hours. (In this instance you will not be eligible for a rest stop en route or a rest period upon arrival at your duty site.); or

(i) When required because of agency mission.

NOTE TO §301-10.124: You may upgrade to business-class at your personal expense, in-

cluding through redemption of frequent flyer benefits.

[FTR Amdt. 70, 63 FR 15955, Apr. 1, 1998, as amended by FTR Amdt. 87, 64 FR 67670, Dec. 2, 1999; FTR Amdt. 104, 67 FR 17947, Apr. 12, 2002; FTR Amdt. 108, 67 FR 57964, Sept. 13, 2002; FTR Amdt. 2005-03, 70 FR 28460, May 18, 2005]

### USE OF UNITED STATES FLAG AIR CARRIERS

SOURCE: FTR Amdt. 74, 63 FR 63419, Nov. 13, 1998, unless otherwise noted.

#### §301-10.131 What does United States mean?

For purposes of the use of United States flag air carriers, *United States* means the 50 states, the District of Columbia, and the territories and possessions of the United States (49 U.S.C. 40102).

#### §301-10.132 Who is required to use a U.S. flag air carrier?

Anyone whose air travel is financed by U.S. Government funds, except as provided in §301-10.135, §301-10.136, and §301-10.137.

#### §301-10.133 What is a U.S. flag air carrier?

An air carrier which holds a certificate under 49 U.S.C. 41102 but does not include a foreign air carrier operating under a permit.

#### §301-10.134 What is U.S. flag air carrier service?

U.S. flag air carrier service is service provided on an air carrier which holds a certificate under 49 U.S.C. 41102 and which service is authorized either by the carrier's certificate or by exemption or regulation. U.S. flag air carrier service also includes service provided under a code share agreement with a foreign air carrier in accordance with Title 14, Code of Federal Regulations when the ticket, or documentation for an electronic ticket, identifies the U.S. flag air carrier's designator code and flight number.

#### §301-10.135 When must I travel using U.S. flag air carrier service?

You are required by 49 U.S.C. 40118, commonly referred to as the "Fly

## § 301-10.136

America Act,” to use U.S. flag air carrier service for all air travel funded by the U.S. Government, except as provided in § 301-10.136 and § 301-10.137 or when one of the following exceptions applies:

(a) Use of a foreign air carrier is determined to be a matter of necessity in accordance with § 301-10.138; or

(b) The transportation is provided under a bilateral or multilateral air transportation agreement to which the United States Government and the government of a foreign country are parties, and which the Department of Transportation has determined meets the requirements of the Fly America Act; or

(c) You are an officer or employee of the Department of State, United States Information Agency, United States International Development Cooperation Agency, or the Arms Control Disarmament Agency, and your travel is paid with funds appropriated to one of these agencies, and your travel is between two places outside the United States; or

(d) No U.S. flag air carrier provides service on a particular leg of the route, in which case foreign air carrier service may be used, but only to or from the nearest interchange point on a usually traveled route to connect with U.S. flag air carrier service; or

(e) A U.S. flag air carrier involuntarily reroutes your travel on a foreign air carrier; or

(f) Service on a foreign air carrier would be three hours or less, and use of the U.S. flag air carrier would at least double your en route travel time; or

(g) When the costs of transportation are reimbursed in full by a third party, such as a foreign government, international agency, or other organization.

### **§ 301-10.136 What exceptions to the Fly America Act requirements apply when I travel between the United States and another country?**

The exceptions are:

(a) If a U.S. flag air carrier offers nonstop or direct service (no aircraft change) from your origin to your destination, you must use the U.S. flag air carrier service unless such use would extend your travel time, including delay at origin, by 24 hours or more.

## 41 CFR Ch. 301 (7-1-07 Edition)

(b) If a U.S. flag air carrier does not offer nonstop or direct service (no aircraft change) between your origin and your destination, you must use a U.S. flag air carrier on every portion of the route where it provides service unless, when compared to using a foreign air carrier, such use would:

(1) Increase the number of aircraft changes you must make outside of the U.S. by 2 or more; or

(2) Extend your travel time by at least 6 hours or more; or

(3) Require a connecting time of 4 hours or more at an overseas interchange point.

### **§ 301-10.137 What exceptions to the Fly America Act requirements apply when I travel solely outside the United States, and a U.S. flag air carrier provides service between my origin and my destination?**

You must always use a U.S. flag carrier for such travel, unless, when compared to using a foreign air carrier, such use would:

(a) Increase the number of aircraft changes you must make en route by 2 or more; or

(b) Extend your travel time by 6 hours or more; or

(c) Require a connecting time of 4 hours or more at an overseas interchange point.

### **§ 301-10.138 In what circumstances is foreign air carrier service deemed a matter of necessity?**

(a) Foreign air carrier service is deemed a necessity when service by a U.S. flag air carrier is available, but

(1) Cannot provide the air transportation needed; or

(2) Will not accomplish the agency's mission.

(b) Necessity includes, but is not limited to, the following circumstances:

(1) When the agency determines that use of a foreign air carrier is necessary for medical reasons, including use of foreign air carrier service to reduce the number of connections and possible delays in the transportation of persons in need of medical treatment; or

(2) When use of a foreign air carrier is required to avoid an unreasonable risk to your safety and is approved by your agency (e.g., terrorist threats). Written